No. 657
23/10/99

CASH ALLOWANCES.

I.—Pensions.

1. Section 5 of Regulation II of 1815 declares that all pensions granted to fakirs or other religious persons for the purpose of lighting or repairing mausoleums or mosques and for the performance of religious ceremonies, shall be continued, but that pensions of this description cannot be considered as of a personal nature.

Under Section 16 of this Regulation, a Collector was authorized to adjudicate on claims less than Rs. 100 in amount.

If, while the Regulation was in force, a Collector decided a pension to be continuable under the Section 5 above quoted, Government must recognize that decision as conferring on the pension a right to treatment under the Rules for Permanent Institutions, and not under "the rules now in force" which would dispose of many as personal allowances.

This seems beyond question, but if the Collector to the extent of his authority classed a claim under Section 5 and decided on its continuance, Government would be bound to recognize the allowance permanently, for the personal character of the pension is specifically negatived in Section 5; and Section 15 seems to be merely a provision to prevent the orders of Government being questioned in a Civil Court. The Regulation could not have intended to lay down in one section that a certain class of allowances should be divested of all personal character, and in another of the same Regulation that such pensions were liable to resumption on the death of the incumbents.

(G. R. No. 1414, dated 17th April 1860.)

2. All new entries of the names of claimants to cash allowances should be made by the order of the Assistant or Deputy Collector, on whom will rest the responsibility that no new names are entered otherwise than in accordance with the decisions of competent authority. (G. R., F. D., No. 595, dated 20th May 1867.)

3. In all applications for the grant of pensions to the members and dependants of Sind jághírdárs, whose jághírs have lapsed to Government, information regarding the value of the lapsed jághírs should invariably be supplied. (G. I., F. D., No. 675, dated 31st January 1878; *vide* G. R. No. 829, dated 15th February 1878.)

4. Under the provisions of Sections 5 and 6 of the Pensions Act, 1871, His Excellency the Right Honourable the Governor in Council is pleased to authorize the Deputy and Assistant Collectors of Salt Revenue in charge of Ranges to hear and dispose of claims and grant certificates empowering a Civil Court to take cognizance of claims relating to grants of money payable on the part of Government in the Salt and Continental Customs Revenue Department, and under the provisions of Section 84 of the Bombay Hereditary Offices Act, 1874, His Excellency the Right Honourable the Governor in Council is pleased to confer on the Collector of Salt

Revenue all such of the powers and duties of a Revenue Commissioner and on the aforesaid officers all such of the powers and duties of a Collector under that Act as are necessary for the lawful control of and are applicable to hereditary officers connected with the said Department. (G. N. No. 4247, dated 22nd July 1881.)

5. The following rules framed by the Collector of Salt Revenue with reference to the above notification have the approval of Government.

I.—Under Section 5.

Disposal of claims preferred under Section 5.

1. Claims preferred to a Deputy or Assistant Collector of Salt Revenue under Section 5 of the Pensions Act, 1871, may be either:

(*a*) against Government only, or

(*b*) against Government and one or more private parties jointly, or

(*c*) against private parties only.

Claims falling under class (*a*) or (*b*) shall ordinarily be disposed of by the Deputy or Assistant Collector of Salt Revenue; but whenever any important legal question is involved which those officers may not feel themselves competent satisfactorily to deal with, the Deputy or Assistant Collector of Salt Revenue may, with the previous sanction of the Collector of Salt Revenue, issue a certificate under Section 6 of the Act authorizing the Civil Court to try the case.

Claims falling under class (*c*) shall be disposed of by the Deputy or Assistant Collector of Salt Revenue if the question at issue between the parties is not of a complicated or difficult nature, but if the claimant applies for a certificate under Section 6 of the Pensions Act, 1871, and sets forth satisfactory reasons for such application, or if the question at issue between the parties appears to be of a complicated or difficult nature, or if the claim is one which if awarded could only be enforced by a Civil Court, the Deputy or Assistant Collector of Salt Revenue may issue a certificate under the said Section 6 authorizing the Civil Court to try the case: provided that no certificate shall be issued for any case which could not be decided by the Civil Court in favour of one or more of the parties thereto without making an order or decree such as it is prohibited from making by the said section.

Previous sanction of Collector of Salt Revenue when necessary to final order of disposal.

2. Except in the cases provided for in the last paragraph of Rule 4, no claim, by which the liability of Government to pay any pension or grant is affected directly or indirectly, shall be disposed of by the Deputy or an Assistant Collector of Salt Revenue without first obtaining the sanction of the Collector of Salt Revenue to the order which he proposes to pass.

Reference of claims for enquiry to subordi-

3. Any claim preferred to the Deputy or an Assistant Collector of Salt Revenue under Section 5 of the Pensions Act, 1871, may

be referred by him for enquiry to any officer subordinate to him; but every order for disposing of a claim or for granting a certificate under Section 6 shall be made with the previous sanction of the Collector of Salt Revenue by the Deputy or Assistant Collector of Salt Revenue himself.

Law, &c., to be observed in disposal of claims.

4. Claims relating to pensions or grants are to be disposed of in accordance with

(*a*) the law, if any, for the time being in force applicable to such claims;

(*b*) the terms and conditions of the sanad or other document, if any, under which such pensions or grants are enjoyed;

(*c*) the rules or orders of Government for the time being in force if applicable to such claims.

But if any claim is brought, the subject-matter of which has been already inquired into and disposed of by competent authority, the Deputy or Assistant Collector of Salt Revenue will merely record the fact of such previous decision, and dispose of the claim accordingly.

II.—Under Section 14.

Reference to Civil Court under Section 6 of the Act.

5. Reference to the Civil Court, under Section 6 of the Act, of any person claiming a right of succession to or participation in any pension or grant, or any other right relating to any pension or grant, shall be made in accordance with Rule 1 by the Deputy or Assistant Collector of Salt Revenue granting to such person a certificate in the following form authorizing the Civil Court to try the case set forth in such person's claim:—

Form of Certificate.

Whereas *A. B.* of is desirous of preferring a claim against C. D. of to establish his right to

(Here state clearly the nature of the claim).

This is to certify that I, *E. F.*, $\frac{\text{Deputy}}{\text{Assistant}}$ Collector of Salt Revenue, in charge Range, do hereby allow under Section 6 of the Pensions Act, 1871, that the said claim may be tried by any Civil Court otherwise competent to try the same.

(Signed) *E. F.*,

$\frac{\text{Deputy}}{\text{Assistant}}$ Collector of Salt Revenue.

Dated at this day of 18 .

Official Seal.

(G. R. No. 4247, dated 22nd July 1881.)

6. In exercise of the powers conferred on him by Sections 5, 8 and 14 of the Pensions Act XXIII, 1871, the Commissioner in Sind has, with the approval of Government, framed the following rules* in supersession of the rules and published at pages

* These rules are an adaptation of the rules under the Pensions Act, 1871, made by the Commissioners, Northern, Southern and Central divisions with the approval of Government and publish-

929-930 of the *Bombay Government Gazette* in notification dated 7th November 1873, and of all other rules and orders on the same subject hitherto in force in any part of the Province of Sind :—

I.—Under Section 5.

Disposal of claims concerning service pensions.

1. Claims relating to pensions or gratuities on account of service, whether in the civil, military, naval, or any other department of the administration, are to be inquired into and disposed of in such manner as may be directed in the Civil Pension Code, or in any rules or orders for the time being in force applicable to such pensions respectively.

Extent of applicability of rest of these Rules.

2. Nothing in the rest of these Rules applies to any pension, gratuity or cash payment to which Rule 1 applies.

Disposal of claims preferred under Section 5.

3. Claims preferred to a Collector under Section 5 of the Act may be either—

(*a*) against Government only, or

(*b*) against Government and one or more private parties jointly, or

(*c*) against private parties only.

Claims falling under class (*a*) or (*b*) shall ordinarily be disposed of by the Collector ; but whenever any important legal question is involved which the Revenue Officers concerned may not feel themselves competent satisfactorily to deal with, the Collector may, with the previous sanction of the Commissioner in Sind, issue a certificate under Section 6 of the Act authorizing the Civil Court to try the case.

Claims falling under class (*c*) shall be disposed of by the Collector if the question at issue between the parties is not of a complicated or difficult nature; but if the claimant applies for a certificate under Section 6 of the Act, and sets forth satisfactory reasons for such application, or if the question at issue between the parties appears to be of a complicated or difficult nature, or if the claim is one which if awarded could only be enforced by a Civil Court, the Collector may issue a certificate under the said Section 6 authorizing the Civil Court to try the case. Provided that no certificate shall be issued for any case which could not be decided by the Civil Court in favour of one or more of the parties thereto without making an order or decree such as it is prohibited from making by the said section.

Previous sanction of Commissioner in Sind when necessary to final order of disposal.

4. Except in the case provided for in the last paragraph of Rule 6, no claim by which the liability of Government to pay any pension or grant is affected directly or indirectly shall be disposed of by a Collector without first obtaining the sanction of the Commissioner in Sind.

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ed under Government Notification No. 6849, dated 23rd December 1879 (*vide* Compilation of General Rules, Part IX).

Reference of claims for inquiry to subordinate officers.

5. Any claim preferred to a Collector under Section 5 of the Act may be referred by him for inquiry to any Assistant or Deputy Collector or other officer subordinate to him, and every Assistant or Deputy Collector in charge of tálukas may receive claims on behalf of the Collector and forward the same with his opinion after inquiry to the Collector; but every order for disposing of a claim or for granting a certificate under Section 6 shall be made with the previous sanction of the Commissioner in Sind by the Collector himself.

Law, &c., to be observed in disposal of claims.

6. Claims relating to pensions or grants are to be disposed of in accordance with—

(*a*) The law, if any, for the time being in force applicable to such claims.

(*b*) The terms and conditions of the "sanad" or other document, if any, under which such pensions or grants are enjoyed.

(*c*) The rules or orders of Government for the time being in force if applicable to such claims.

But if any claim is brought, the subject-matter of which has been already inquired into and disposed of by competent authority, the Collector will merely record the fact of such previous decision, and dispose of the claim accordingly.

II.—Under Section 8.

Payments to be for the year commencing 1st May, but may be made in instalments.

7. All payments of pensions or grants are usually to be made in one lump sum for the year commencing on the 1st May and ending 30th April, but applications for their payment by monthly or quarterly instalments may be considered and disposed of by the Collectors, subject to the sanction of the Commissioner in Sind.

Payments of arrears.

8. Pensions and grants, for the payment of which application is duly made at the proper period, will be paid in full, except in the case of payment being suspended, pending the orders of a Civil Court or pending inquiries by Government or by any officer of Government. But if, owing to non-application or other neglect on the part of the claimants, such payments fall into arrears, the pensions or grants will be paid as follows:—

For the current year, in full.		
First year's arrears, in full.		
Second do.,	subject to a deduction of	10 per cent.
Third do.,	do.	20 do.
Fourth do.,	do.	30 do.
Fifth do.,	do.	40 do.

(The current year means the year within which payment is properly due under Rule 13.)

Payment of arrears due to deceased persons.

9. Subject to the provisions of Rule 8, Collectors may authorize the payment of arrears due to a deceased person after such investigation as shall satisfy them—

(*a*) of the actual date of such person's death, and

(*b*) that the applicant is entitled as such person's legal heir, or otherwise, to receive payment.

Pension or allowance not drawn for six years to lapse.

10. Any pension or grant for payment of which no application is duly made for more than six years, is to be struck off the books, and all arrears forfeited.

But in certain cases may be re-admitted.

But if the pension or grant is held under a permanent or hereditary title, it may be re-admitted without payment of arrears if a claim thereto is duly preferred under Section 5 of the Act within twelve years from the date of the last payment.

Date of applications for arrears to be noted.

11. The date on which application for payment was made must be noted by the disbursing officer on all bills for arrears.

III.—Under Section 14.

Place of payment of pensions and grants.

12. Pensions or grants will be paid at the following places, namely :—

(1) If payable on behalf of a religious institution, at the treasury of the district or tâluka in which such institution is situated.

(2) If payable on behalf of a religious institution in foreign territory, at the nearest Government treasury.

(3) If the pension or grant is personal, at the treasury most convenient to the recipient.

Orders for permitting transfers of payment under the above clause (3) will be made by the Collectors if the transfer sought is from one treasury to another within the same Collectorate, by the Commissioner in Sind if the transfer sought is from a treasury in one Collectorate to a treasury in another Collectorate within the same division, and by Government in any other case.

Times of payment.

13. All pensions and grants shall be deemed to be due on the 1st May next after the completion of the year in respect of which they are payable, but shall ordinarily be payable only in the months respectively fixed, or hereafter to be fixed, by or under the orders of Government for payment of pensions and grants of the various descriptions. But when payment in monthly or quarterly instalments has been directed by the Collector under Rule 7, payments will be made in accordance with such direction.

Persons to whom payments are to be made.

14. Pensions and grants will be paid only to those persons whose names have been authorizedly entered in the records as the payees thereof, or to their duly empowered attorneys or mukhtyárs, or, if they are minors, to their administrators.

Life certificates when necessary.

Except as is otherwise provided in Rule 22, payments will be made to an attorney, mukhtyár or administrator only, on his satisfying the disbursing officer by the production of a certificate, signed by a Magistrate or by some other well-known person of respectability, that the payee was living on the last day of the year or other period for which the pension or grant is due.

Payee in case of alienable pensions or grants.

15. In the case of pensions or grants which Government recognize as alienable, the name of the lawful holder for the time being shall, subject to the provisions of Rules 16 and 17, be entered in the records as payee.

Life certificate of original grantee or of his descendants when necessary.

But if any such pension or grant is continuable by Government only so long as the original grantee and certain of his descendants shall be in existence, and the payee has obtained a transfer of the same by sale, gift, mortgage, or the like, such payee must produce at the time of each payment a certificate from the mukhtyarkar of the táluka or mahál in which the original grantee or his descendants reside, or, if their residence be in foreign territory, of some British officer resident in the said territory, that such grantee or his said descendants (who should invariably be named) on whose behalf payment is claimed was or were alive on the last day of the year or other period for which such payment is due.

Mutation of payees' names.

16. Applications for mutation of payees' names in the records shall be received and disposed of by the Collectors.

In the case of alienation and

In the case of a transfer of any pension or grant which Government recognize as alienable, such mutation may be made on obtaining the consent in writing of the existing payee without further inquiry.

in case of death of former payee.

In the case of the death of a payee, the Collector may require the production by the applicant of a certificate of heirship and of such other evidence as he deems fit.

When application for mutation of names may be treated as a claim under Section 5 of the Act.

But whenever there is any dispute between conflicting parties, and whenever the Collector doubts whether the pension or grant is any longer continuable, the application shall be regarded by him as a claim under Section 5 of the Act, and shall be dealt with accordingly.

Mutation of names consequent upon decision of claims under Section 5 of the Act.

Any mutation of names rendered necessary by the decision in any claim under Section 5 of the Act (including applications of the nature specified in the last preceding para. of this Rule) may be made by the Collector without further investigation.

Whose name may be entered as payee.

17. As a rule, the name of one person only will be entered as payee of each separate entire pension or grant.

In the case of joint transferees; and

In the case of two or more joint transferees of a pension or grant which Government recognize as alienable, they must elect which one's name shall be so entered, and in the event of their failing so to do within such period as shall be fixed by the Collector, the Collector shall enter the name of such one of them as he deems fit.

In the case of joint-heirs.

In the case of joint-heirs, the Collector will determine who is the eldest male representative of the senior surviving branch of the original grantee's or of the transferee's family, or, in the absence of male heirs, who is the senior heiress, and enter his or her name as payee: Provided at the request of the person thus entitled to be entered as payee, the name of any other member of the family may be substituted by the Collector for that of the said person during such person's life-time.

Joint payees and separate recognition of sharers.

18. If any pension or grant has been hitherto entered in the records in the joint names of two or more persons, or, if any division of a pension or grant has been recognised, and shares entered separately in the names of the respective co-sharers, such entries may hereafter be continued; but no such new entries shall be made in the records except with the previous sanction of the Commissioner in Sind, which shall be given only under very special circumstances.

But Collectors may, on written application, sanction sub-divisions of pensions or grants by disbursing officers at the time of payment by special written order in each case.

Payments to joint payees when their joint receipt is not obtainable.

19. Whenever, in consequence of disagreements amongst joint payees or for any other reason, their joint receipt shall not be obtainable for any payment already due, the Collector may authorize such payment to be made to any one or more of such joint payees who are willing to pass a receipt.

Payees responsible for proper distribution of pension or grant to sharers.

20. The persons recorded as the payees of pensions or grants, and the persons to whom any payment may be made under the last preceding Rule, are not necessarily entitled to appropriate the whole of such pensions, grants or payment to themselves, but are responsible for distributing the same to all co-sharers or sub-sharers in the proportions to which they are respectively entitled.

Preparation of descriptive rolls.

21. Except, as is otherwise provided in Rule 22, a descriptive roll in the form of Appendix A shall be kept by the disbursing officer of every payee entitled to receive payment of a pension or grant from him. A copy of such roll under the disbursing officer's signature shall be furnished to the payee for production by him at the time of each payment, which shall be noted therein in the manner shown in the form.

Inquiries into identity of claimants.

The person applying for payment must be identified by comparison with the particulars given in the descriptive roll, and the disbursing officer should take every precaution against fraudulent personation. When the payee can write, his signature should, at the time of payment, be compared with that in the descriptive roll in the disbursing officer's possession.

Descriptive rolls and life-certificates may be dispensed with in certain cases.

22. Descriptive rolls and life-certificates may be dispensed with in the case of natives of rank and pardah-posh ladies; but the disbursing officer will not on that account be exempt from the general responsibility which necessarily attaches to all payments.

Descriptive rolls will not be necessary in the case of pensions or grants on account of native religious or charitable institutions which are paid to "Panches" or committees or other representatives of these institutions, nor in the case of payees of allowances which have been declared to be continued hereditarily.

Printed lists to be kept of sanctioned pensions and grants.

23. The Commissioner in Sind will prepare under his signature lists, in English and in the vernacular, of all pensions and grants in each Collectorate in the Province of Sind, and furnish printed copies thereof to the mukhtyárkars, the Collectors, their Assistants and Deputies, the Accountant General and to Government.

Quarterly Correction Statements to be submitted to the Commissioner in Sind.

24. A quarterly statement of all proposed alterations in or additions to the said lists in consequence of decisions or orders passed during the preceding 3 months affecting the same, shall be submitted by each Collector on the 1st January, 1st April, 1st July and 1st October to the Commissioner in Sind who after scrutiny will countersign the same and direct that the lists in his own office and in the various offices in the Collectorate shall be corrected accordingly. A copy of the statement so countersigned shall also be sent to the Accountant General, who shall correct his lists in accordance therewith.

No pension or grant shall be entered in, or struck out from, the accounts or the said lists, except with the previous sanction of the Commissioner.

Accounts to be kept by disbursing officers.

25. Disbursing officers will, on the 1st of May of each year, or as soon after as possible, prepare a ledger (khátewahi) agreeably to the Táluka Form* No. 21 contained in Hope's Manual of Accounts, and will keep a book in the Táluka Form No. 12 contained in that Manual, and will be held responsible for the correctness of the entries in the ledger and book and for their being properly filled in from time to time.

Issue of "sanads" to payees of pensions and grants.

26. "Sanads" in the name of the Secretary of State for India in Council will be executed by the Collectors as authorized in the Government of India's Resolution No. 684, dated 31st May 1878, Home Department (*vide* Government Resolution No. 3518, dated 14th June 1878, Judicial Department), in favour of the payee or payees for the time being of every pension or grant in respect of which the issue of such "sanads" has been or may hereafter be sanctioned by Government. Such "sanads" will be issued once for all, and "sanads" already issued by the Commissioner in Sind or by Collectors, or by any other officer authorized by Government in this behalf, shall be deemed to have been issued under this Rule.

The terms and conditions to be inserted in these "sanads" will be such as Government may from time to time authorize, or as may already have been so authorized.

Registers of "sanads" to be kept.

27. Registers of these sanads will be kept by each Collector, and a general register by the Commissioner in Sind.

Which shall be open to inspection, &c.

The said registers shall be open to public inspection during office hours, and extracts from the same shall be obtainable, subject to the same rules and to the payment of the same fees as apply to the case of registers of the documents mentioned in clause (*d*), Section 90 of the Indian Registration Act, 1877.

Reference to Civil Court under Section 6 of the Act.

28. Reference to the Civil Court under Section 6 of the Act of any person claiming a right of succession to or participation in any pension or grant, or any other right relating to any pension or grant, shall be made in accordance with Rule 3 by the Collectors, granting to such person a certificate in the form of Appendix B authorizing the Civil Court to try the case set forth in such person's claim.

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* No. 23 in the revised edition.